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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,381	12/02/2003	Frida Ryttsen	59664 CIP (47137)	5635
21874	7590	11/15/2007		
EDWARDS ANGELL PALMER & DODGE LLP			EXAMINER	
P.O. BOX 55874			KETTER, JAMES S	
BOSTON, MA 02205				
			ART UNIT	PAPER NUMBER
			1636	
			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,381

Applicant(s)

RYTTSEN ET AL.

Examiner

James S. Ketter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-135 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-42 is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 12-14, 16-18, 22, 43, 46, 50, 51, 53-56, 59, 60 and 62-64 is/are rejected.
- 7) ☒ Claim(s) 5-9, 11, 15, 19-21, 23-28, 44, 45, 47-49, 52, 57, 58, 61 and 65-135 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 and 09 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 5-9, 11, 15, 19-21, 23-28, 44, 45, 47-49, 52, 57, 58, 61 and 65-135 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 29-42 are allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 10, 12-14, 16-18, 22 and 54 stand rejected under 35 U.S.C. 102(b) as being anticipated by Holmes (A, of record), for reasons of record set forth in the Office Action mailed 14 December 2006.

The remarks filed 4 September 2007, which appear to be substantially the same as those filed 11 April 2007 and 30 April 2007, are addressed below.

At page 15, third paragraph, Applicants argue that the reference does not suggest a tip electrode. However, the device disclosed in the reference would be useable as a tip electrode. This term is presented in the preamble and does not convey any structural limitation to the claimed invention. Applicants then argue that the reference does not teach an electrode plate. However, the rejected claims do not recite an electrode plate. Applicants argue that the device of the reference “would in no way be considered an electrode tip...as presently claimed.” However, no reasoning is provided in support of this assertion, e.g., a clear definition in the art or

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the specification that excludes the invention of Holmes. Applicants then argue that it is not clear that the needle tip could be electrified by the battery. However, the claims do not recite that the electrode is electrified, only that it may be. Essentially any metallic object can be electrified, and there is nothing disclosed by Holmes that would suggest that the reference invention could not be electrified. Applicants then argue that one of skill would not take the reference syringe and couple it to a voltage generator. However, this point is moot, in that the claimed structure is met by the features of the reference.

Claims 43, 46, 50, 51, 53, 55, 56, 59, 60 and 62-64 stand rejected under 35 U.S.C. 102(b) as being anticipated by Korenstein et al. (of record), for reasons of record set forth in the Office Action mailed 14 December 2006.

At page 16 Applicants argue that the reference does not teach “a tip electrode comprise a housing defining a lumen for receiving an electrically conductive medium and an electrically conducting surface for coupling to a voltage or current generator”. However, this was explained in the previous Office Action, and Applicants have merely asserted that the reference does not teach the recited features of the invention, without pointing out specific deficiencies in the reference.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Ketter whose telephone number is 571-272-0770. The examiner can normally be reached on Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on 571-272-0781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSK

3 November 2007



JAMES KETTER
PRIMARY EXAMINER